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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

DEANNA H. TUELL
aka Deanna Helena Tuell
PO Box 941
Cobb, CA 95426

Registered Nurse License No. 328463

RESPONDENT

Case No. 2012-416

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about December 30, 2011, Complainant Louise R. Bailey, M.Ed.,RN, in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Accusation No. 2012-416 against Deanna H. Tuell (Respondent) before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

2. On or about March 31, 1981, the Board of Registered Nursing (Board) issued Registered Nurse License No. 328463 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2013, unless renewed.

3. On or about December 30, 2011, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2012-416, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record which, pursuant to Business and Professions Code section 136 and/Title 16, California Code of Regulation, section 1409.1, is required to be reported and maintained with the Board, which was and is:

PO Box 941
Cobb, CA 95426.

1 4. Service of the Accusation was effective as a matter of law under the provisions of
2 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
3 124.

4 5. On January 18, 2012, the Certified Mail documents were delivered per USPS Track
5 and Confirm.

6 6. Business and Professions Code section 2764 states:

7 The lapsing or suspension of a license by operation of law or by order or decision of
8 the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive
9 the board of jurisdiction to proceed with an investigation of or action or disciplinary proceeding
10 against such license, or to render a decision suspending or revoking such license.

11 7. Government Code section 11506 states, in pertinent part:

12 (c) The respondent shall be entitled to a hearing on the merits if the respondent files a
13 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
14 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's
15 right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

16 8. Respondent failed to file a Notice of Defense within 15 days after service of
17 the Accusation upon her, and therefore waived her right to a hearing on the merits of Accusation
18 No. 2012-416.

19 9. California Government Code section 11520 states, in pertinent part:

20 (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
21 agency may take action based upon the respondent's express admissions or upon other evidence
22 and affidavits may be used as evidence without any notice to respondent.

23 10. Pursuant to its authority under Government Code section 11520, the Board after
24 having reviewed the proof of service dated December 30, 2011, signed by Shannon Silberling,
25 finds Respondent is in default. The Board will take action without further hearing and, based on
26 Accusation No. 2012-416 and the documents contained in Default Decision Investigatory
27 Evidence Packet in this matter which includes:
28

1 Exhibit 1: Pleadings offered for jurisdictional purposes; Accusation No. 2012-416,
2 Statement to Respondent, Notice of Defense (two blank copies), Request
3 for Discovery and Discovery Statutes (Government Code sections
4 11507.5, 11507.6 and 11507.7), proof of service; and USPS.com Track &
5 Confirm dated February 1, 2012;

6 Exhibit 2: License History Certification for Deanna H. Tuell, Registered Nurse
7 License No. 328463;

8 Exhibit 3: Court and Arrest Records;

9 Exhibit 4: Affidavit of Kami Pratab;

10 Exhibit 5: Declaration of costs by Office of the Attorney General for prosecution of
11 Case No. 2012-416.

12 The Board finds that the charges and allegations in Accusation No. 2012-416 are separately and
13 severally true and correct by clear and convincing evidence.

14 11. Taking official notice of Certification of Board Costs and the Declaration of Costs by
15 the Office of the Attorney General contained in the Default Decision Investigatory Evidence
16 Packet, pursuant to the Business and Professions Code section 125.3, it is hereby determined that
17 the reasonable costs for Investigation and Enforcement in connection with the Accusation are
18 \$977.50 as of February 1, 2012.

19 DETERMINATION OF ISSUES

20 1. Based on the foregoing findings of fact, Respondent Deanna H. Tuell has subjected
21 her following license(s) to discipline:

22 a. Registered Nurse License No. 328463

23 2. The agency has jurisdiction to adjudicate this case by default.

24 3. The Board of Registered Nursing is authorized to revoke Respondent's license(s)
25 based upon the following violations alleged in the Accusation, which are supported by the
26 evidence contained in the Default Decision Investigatory Evidence Packet in this case.

27 a. Violation of Business and Professions Code section 2761(a) - Unprofessional
28 Conduct.

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- b. Violation of Business and Professions Code section 2761(f) - Conviction substantially related to the qualifications, functions and duties of a registered nurse.
- c. Violation of Business and Professions Code section 2762(b) - Use of controlled substance or alcohol to an extent or in a manner dangerous or injurious to oneself and others.
- d. Violation of Business and Professions Code section 2762(c) - Criminal conviction involving alcoholic beverages or controlled substances.

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 328463, heretofore issued to Respondent Deanna H. Tuell, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on August 24, 2012.

It is so ORDERED July 25, 2012



Board of Registered Nursing
Department of Consumer Affairs
State of California

Attachment:

Exhibit A: Accusation No. 2012-416

Exhibit A

Accusation No. 2012-416

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 CHAR SACHSON
Deputy Attorney General
4 State Bar No. 161032
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5558
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2012-416

13 **DEANNA H. TUELL**
aka Deanna Helena Tuell
14 P.O. Box 941
Cobb, CA 95426

ACCUSATION

15 Registered Nurse License No. 328463

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about March 31, 1981, the Board of Registered Nursing issued Registered
23 Nurse License Number 328463 to Deanna H. Tuell aka Deanna Helena Tuell (Respondent). The
24 Registered Nurse License was in full force and effect at all times relevant to the charges brought
25 herein and will expire on January 31, 2013, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing (Board),
28

1 Department of Consumer Affairs, under the authority of the following laws. All section
2 references are to the Business and Professions Code unless otherwise indicated.

3 4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline
4 any licensee, including a licensee holding a temporary or an inactive license, for any reason
5 provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6 5. Section 2761 of the Code states:

7 "The board may take disciplinary action against a certified or licensed nurse or deny an
8 application for a certificate or license for any of the following:

9 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

10
11 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
12 functions, and duties of a registered nurse, in which event the record of the conviction shall be
13 conclusive evidence thereof.

14 ..."

15 6. Section 2762 of the Code states:

16 "In addition to other acts constituting unprofessional conduct within the meaning of this
17 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
18 chapter to do any of the following:

19 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
20 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
21 administer to another, any controlled substance as defined in Division 10 (commencing with
22 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
23 defined in Section 4022.

24 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
25 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
26 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
27 himself or herself, any other person, or the public or to the extent that such use impairs his or her
28 ability to conduct with safety to the public the practice authorized by his or her license.

1 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
2 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
3 or the possession of, or falsification of a record pertaining to, the substances described in
4 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
5 thereof.

6 "(d) Be committed or confined by a court of competent jurisdiction for intemperate use of
7 or addiction to the use of any of the substances described in subdivisions (a) and (b) of this
8 section, in which event the court order of commitment or confinement is prima facie evidence of
9 such commitment or confinement.

10 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any
11 hospital, patient, or other record pertaining to the substances described in subdivision (a) of this
12 section."

13 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or
14 revoke a license on the ground that the licensee has been convicted of a crime substantially
15 related to the qualifications, functions, or duties of the business or profession for which the
16 license was issued.

17 8. California Code of Regulations, title 16, section 1444, states:

18 "A conviction or act shall be considered to be substantially related to the qualifications,
19 functions or duties of a registered nurse if to a substantial degree it evidences the present or
20 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
21 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

22 "(a) Assaultive or abusive conduct including, but not limited to, those violations listed in
23 subdivision (d) of Penal Code Section 11160.

24 "(b) Failure to comply with any mandatory reporting requirements.

25 "(c) Theft, dishonesty, fraud, or deceit.

26 "(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the
27 Penal Code."

2. Ordering Deanna H. Tuell aka Deanna Helena Tuell to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED:

12/30/2011

Steve Benson

for LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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